

Federal Court



Cour fédérale

Date: 20250929

Docket: T-3048-24

Citation: 2025 FC 1605

Toronto, Ontario, September 29, 2025

PRESENT: The Honourable Mr. Justice Ahmed

BETWEEN:

JANNA-JOY GOFF

Applicant

and

ATTORNEY GENERAL OF CANADA

Respondent

JUDGMENT AND REASONS

I. **Overview**

[1] The Applicant, Janna-Jay Goff, seeks judicial review of a decision of the Canada Revenue Agency (“CRA”) dated September 20, 2024, in which the Applicant was found ineligible for the Canada Emergency Response Benefit (“CERB”) pursuant to section 2 of the *Canada Emergency Response Benefit Act*, SC 2020, c 5, s 8 (the “Act”).

[2] The Applicant submits that the CRA erred by disregarding her evidence, assessing her net self-employment income rather than gross self-employment income, and failing to inform her that further evidence of her income was required.

[3] For the reasons that follow, I find no basis in law for disturbing the CRA's decision. This application for judicial review is dismissed.

II. **Background**

A. *Statutory Framework*

[4] CERB was a social benefit intended to offset the economic impact of the COVID-19 Pandemic. CERB provided income support to workers, including self-employed workers, for any four-week period beginning on March 15, 2020, and ending on October 3, 2020 (the Act, s 5(1)). The benefits required that an applicant have earned at least \$5,000 from approved income sources in 2019, 2020, or in the 12 months prior to the application date (the Act, s 2).

[5] If the CRA selects a CERB recipient for a compliance review, the recipient must retroactively prove their eligibility for the benefit (the Act, s 10). If an individual disagrees with the compliance review's outcome, they may request a second review. If an individual disagrees with the second review's outcome, they may seek judicial review of the CRA's decision.

B. *Facts*

[6] The Applicant is self-employed, operating a small business that provides drop-in wellness services.

[7] In September 2019, the Applicant gave birth to her youngest child. She ceased operating her business for a period of four months, returning to work in February 2020.

[8] In March 2020, public health measures related to the COVID-19 Pandemic caused the Applicant to again cease operating her business.

[9] During this time, the Applicant applied for and received five instalments of CERB for the periods of March 15, 2020 to June 6, 2020 and August 2, 2020 to September 26, 2020.

[10] On September 9, 2022, the CRA issued the Applicant a Notice of Compliance Review. The Notice of Compliance Review stated that the CRA required “Proof of Earnings over \$5,000.” The Notice of Compliance Review stated that, for self-employed individuals:

Documents can include, but are not limited to:

...

invoice(s) for services rendered that includes the service date, who the service was for, and the name of the individual or company

receipt of payment for the service or services provided (a statement of account or bill of sale showing a payment and the remaining balance owed)

documents showing income earned from a “trade or business” as a sole proprietor, an independent contractor, or a partnership

any other document(s) that will confirm you earned \$5,000 in employment or self-employment income

[11] The Applicant was provided 45 days to submit these documents.

[12] No documents were submitted.

[13] On December 7, 2022, the CRA phoned the Applicant. The Applicant explained that “[she] and her children [were] sick with the flu.” She requested further time to submit her materials. The CRA agreed to the requested extension.

[14] No documents had been submitted by March 1, 2023. On March 10, 2023, the CRA issued a decision letter finding the Applicant ineligible for CERB (the “Initial Decision”).

[15] The Applicant sought a review of the Initial Decision. She explained that, following her call with the CRA, she amended her 2019 income tax assessment to report her gross self-employment income as her net self-employment income. She explained that she did this in order to seek relief under the *Canada Emergency Response Benefit and Employment Insurance Emergency Response Benefit Remission Order*, SI/2021-19 (“Remission Order”), which provides that individuals who “would have been eligible...if their self-employment gross income” – rather than their self-employment net income – “had been taken into account” are not required to repay overpayments of CERB (s 1). To her letter, the Applicant attached customer receipts for the period of January to August 2019. She also included an invoice in the amount of \$2,000 (the “Invoice”).

[16] Based on these documents, the Applicant’s file – which had previously been considered incomplete – proceeded to a First Review. The First Review Officer determined that the Applicant was ineligible for CERB, as the submitted documents were “insufficient to prove \$5k income.”

[17] The Applicant requested a Second Review. On October 18, 2023, she submitted further materials for the Second Review Officer to consider, including income tax assessments for 2016-2019, an amendment to her income tax assessment in 2019, and a summary spreadsheet of her income from January 2019 to March 2020.

[18] On September 20, 2024, the Second Review Officer found the Applicant ineligible for CERB (“Second Review Decision”). The following notes appear in the Second Review Decision Report:

From Jan 5 – Aug 20, 2019: the [Invoice] and the receipts tallied by me total \$5,530. The [I]nvoice is incomplete, it does not have contact detail for [the Applicant] or the attendee. I cannot confirm the document was intended for [the Applicant’s] purposes.

In calls regarding previous cases, [the Applicant] attested that [she] did not have other documents to verify their income, the spread sheets could have been created after speaking with the agent. The [Invoice] does not have contact details for the client or identifying characteristics that it was used for [the Applicant]. These documents do not confirm [the Applicant] earned at least \$5k in 2019.

Receipts 12 months prior to CERB; April 18, 2019 to April 18, 2020 total \$2710.00

...

[The Applicant] has submitted insufficient documents that do not support their claim.

...

[The Applicant] has not returned my call. Without speaking to [the Applicant], I do not know if [she was] employed at the time [she] applied or how Covid affected [her] income. I have not been able to request additional documents. I cannot confirm that [she] had earned at least \$5000.00 from total employment of net [self-employment] in 2019, 2020, or the 12 months prior.

[19] This is the decision presently under review.

III. Issues and Standard of Review

[20] The Applicant submits that the Second Review Decision is unreasonable. I find she has also alleged procedural unfairness, as the Applicant alleges that the CRA “failed to advise [her] that they required further supporting documentation to verify her income, depriving her of a true [S]econd [R]eview.”

[21] The parties submit that the applicable standard of review for the merits of the decision is that of reasonableness (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at paras 25, 86-87 (“*Vavilov*”)). I agree.

[22] The issue of procedural fairness is to be reviewed on the correctness standard (*Mission Institution v Khela*, 2014 SCC 24 at para 79; *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at paras 37-56 (“*Canadian Pacific Railway Company*”); *Canadian Association of Refugee Lawyers v Canada (Immigration, Refugees and Citizenship)*, 2020 FCA 196 at para 35). I find that this conclusion accords with the Supreme Court of Canada’s decision in *Vavilov* (at paras 16-17).

[23] Reasonableness is a deferential, but robust, standard of review (*Vavilov* at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible, and justified (*Vavilov* at para 15). A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (*Vavilov* at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (*Vavilov* at paras 88-90, 94, 133-135).

[24] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (*Vavilov* at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (*Vavilov* at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a “minor misstep” (*Vavilov* at para 100).

[25] Correctness, by contrast, is a non-deferential standard of review. The central question for issues of procedural fairness is whether the procedure was fair having regard to all of the circumstances, including the factors enumerated in *Baker v Canada (Minister of Citizenship and Immigration)*, 1999 CanLII 699 (SCC), [1999] 2 SCR 817 (at paras 21-28; see also *Canadian Pacific Railway Company* at para 54).

IV. **Analysis**

A. *The Second Review Decision was Reasonable*

[26] The Applicant submits that the Second Review Decision is unreasonable because the Second Review Officer disregarded her evidence and failed to justify their finding that she did not meet the income requirement in section 2 of the Act. The Applicant also submits that the Second Review Officer ignored the Remission Order, unreasonably required her to produce bank statements, and fettered their discretion by not accounting for her personal circumstances.

[27] The Respondent submits that the Second Review Officer made no reviewable error. The Respondent's position is that the Applicant's evidence was insufficient to demonstrate that she met the income requirements for CERB, regardless of the effect of the Remission Order. The Respondent submits that the Second Review Officer did not require the Applicant to produce bank statements.

[28] I agree with the Respondent.

[29] The key question in this case is whether the Officer reasonably concluded that the Applicant's Invoice was insufficient evidence of income over \$5,000 in the relevant time period. I find that it was reasonable, since the Invoice lacked fundamental information required by the CRA's "Confirming COVID-19 Benefits Eligibility" guidelines (the "Guidelines").

[30] The Guidelines state that invoices “must include the date of the service, description of service, who the service was for, and the [benefit recipient]’s name or company’s name.” These requirements were affirmed in *Crook v Canada (Attorney General)*, 2022 FC 1670, in which invoices that included “the client’s name, address, and phone number; itemized descriptions of the work done; the date, hours worked, hourly rate, and total amount invoiced; and the date payment was made” were found to be sufficient proof of income in the context of a COVID benefits review (at para 8). The requirements for invoices as proof of income were communicated to the Applicant in the Notice of Compliance Review dated September 9, 2022.

[31] These details were lacking in the Applicant’s Invoice. The Second Review Officer impugned the Invoice based on two factors: the absence of “identifying characteristics” about the Applicant and the absence of contact information for the Applicant and her client. This finding is entirely compliant with the Guidelines and past practice. The Second Review Officer, therefore, reasonably impugned the Invoice based on the absence of this information.

[32] I acknowledge that the Applicant submits her income tax returns “should be considered conclusive proof of income.” This submission is at odds with the jurisprudence. This Court has previously held that “it is reasonable for the CRA not to consider an income tax assessment as conclusive of qualifying income” as “the Canadian tax system is based on self-assessment” (*Fahandez-Saadi v Canada (Attorney General)*, 2023 FC 1665 at para 19 (“*Fahandez-Saadi*”); *Walker v Canada (Attorney General)*, 2022 FC 381 at para 36).

[33] As a result, I find no error in the Second Review Officer’s decision to “draw their conclusions from other evidence before them” (*Fahandez-Saadi* at para 19). The only other

evidence for the Applicant's income were the Invoice and receipts for the period of January to August 2019.

[34] This finding does not change regardless of the Remission Order. As the Respondent rightly submits, the matter at issue in the present proceeding was not whether the Applicant's net self-employment income had been assessed instead of her gross self-employment, but rather that there was insufficient evidence of "\$5,000 in income [having] been earned at all."

[35] Further, I am not persuaded by the Applicant that the Second Review Officer required her to produce bank statements. The Second Review Officer recognized that the Applicant "does not have bank statements" as drop-in wellness is a "cash based industry." The Second Review Officer then duly considered the other evidence of income, including the Invoice and receipts.

[36] As a final point, the Applicant submits that the Second Review Officer ought to have considered her circumstances as a low-income individual and that "[t]he CRA has a heightened responsibility to justify decisions with significant consequences on vulnerable people."

[37] I recognize the significant consequences of the Second Review Decision on the Applicant and her family. However, the CRA has no discretion under the Act to assess eligibility on compassionate grounds (*Devi v Canada (Attorney General)*, 2024 FC 33 at paras 29-30). The Second Review Officer was permitted to consider only the factors listed in the Act and Guidelines. It cannot be a reviewable error for an officer to decline to exercise powers beyond those the Act conferred on them.

B. *There was No Breach of Procedural Fairness*

[38] The Applicant submits that the Second Review Officer did not inform her that further documentation was required to verify her income, depriving the Applicant of a “true Second Review.”

[39] The Respondent submits that the Applicant’s procedural rights were not infringed, as the Second Review Officer attempted to reach the Applicant using the procedures outlined in the Guidelines and the Applicant herself had previously stated “she doesn’t have [any] documents to submit, whatever she had she has already submitted.”

[40] I agree with the Respondent.

[41] In this case, the Applicant understood that the particular eligibility criteria at issue was the income threshold. She provided further evidence on the topic of income in her Second Review Request on October 18, 2023. In my view, the Applicant knew the case that she had to meet. She had – and, indeed, exercised – the opportunity to present evidence on her own behalf. Given these factors, I do not find that the Applicant’s procedural rights have been breached.

[42] The Second Review Officer attempted to contact the Applicant on September 6, 2024. As stipulated in the Guidelines, they left the Applicant a voicemail indicating that the deadline for her to return their call was September 20, 2024. Although the Applicant submits that the CRA did not contact her while the Second Review was in progress, I note that the number the Second Review Officer called was the same number where an officer successfully reached the

Applicant on December 7, 2022; March 1, 2023; and September 11, 2023. The Second Review Officer noted: “[the Applicant] has not returned my call. Without speaking to [her]. I do not know if [she was] employed at the time [she] applied or how Covid affected [her] income. I have not been able to request additional documents.”

[43] In the absence of a response from the Applicant, the evidence before the Second Review Officer consisted of the CRA Notepad entries from the Initial and First Reviews. The Second Review Officer noted that the Applicant stated on September 11, 2023, that “she doesn’t have [any] documents to submit, whatever [documents] she had she has already submitted.” This Court has dismissed claims of procedural unfairness in light of such statements in the past (*Lee v Canada (Revenue Agency)*, 2024 FC 1039 at para 15).

[44] In any event, the CRA was not obliged to inform the Applicant that further evidence of her income was required. In compliance reviews, the benefit recipient bears the responsibility of bringing evidence of their eligibility (*Archer v Canada (Attorney General)*, 2024 FC 1614 at para 44 (“*Archer*”); the Act, s 10). Officers are “not required to ask [benefit recipients] to prove specific eligibility criteria or alert [benefit recipients] in advance of which eligibility criteria may form the basis of a denial” (*Dugandzic v Canada (Attorney General)*, 2025 FC 202 at para 39). Consequentially, I do not find that the Officer breached the Applicant’s right to procedural fairness.

V. **Conclusion**

[45] For these reasons, I find that the Second Review Decision is reasonable and was rendered in a procedurally fair manner. The Second Review Decision is justified in light of the evidence before the decision-maker and accords with the factual and legal constraints of CERB compliance reviews (*Vavilov* at paras 99, 126). The Second Review Officer adequately discharged their duty of procedural fairness, in light of the onus on the Applicant to bring evidence of her eligibility (*Archer* at para 44; the Act, s 10). This application for judicial review is dismissed without costs.

JUDGMENT in T-3048-24

THIS COURT'S JUDGMENT is that:

1. This application for judicial review is dismissed.
2. No costs are awarded.

Shirzad A.

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-3048-24

STYLE OF CAUSE: JANNA-JOY GOFF v ATTORNEY GENERAL OF CANADA

PLACE OF HEARING: VANCOUVER, BRITISH COLUMBIA

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